

Remarks

Claims 1 through 19 are pending in this application.

Restriction of claims

Claims 1 -19 have been restricted into two (2) groups. Applicants respectfully traverse this restriction for the reasons provided below. Pursuant to 37 CFR 1.143, Applicants provisionally elect Group I for further prosecution.

The Examiner has restricted the pending claims 1-20 into two (2) groups: Group I is directed to claims 1-15, drawn to methods for preparing RNA samples; and Group II is directed to claims 16-19, drawn to kits for isolating RNA.

The Examiner contends that the inventions are distinct from one another for the following:

"Inventions II and I are related as product and process of use. The inventions can be shown to be distinct if either or both ... can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product." Referring to MPEP § 806.05(h).

Applicants respectfully disagree.

The Examiner is relying upon MPEP § 806.05(h) which deals with a product and a process of using the product. Applicants contend that this section is not applicable to the pending claims under restriction.

Claims 1-15 are directed to a *method* for preparing an RNA sample from a tissue matrix. Any particular isolate, or prepared, RNA is not being claimed in any of the claims. The method incorporates certain elements such as a isolation column having

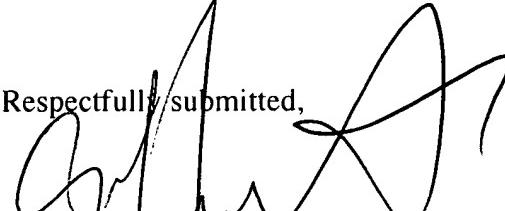
certain characteristics and features that facilitates the preparation of RNA. The subject matter for the pending claims is a *method* and not a particular RNA isolate.

Claims 16-19 are directed to a kit that can be used for employing the *method* as defined in claims 1-15. Again, the kit is directed toward a *method* of isolating RNA employing various elements such as an isolation column.

This dichotomy of process and product articulated by the Examiner is not supported by the pending claims. The pending claims are related in that they are directed to a *method* for isolating RNA - not any particular RNA. Group I and II, as defined by the Examiner, require a related search, *i.e.*, method for isolating RNA. Applicants contend that this would not be a burdensome search, rather, it would be a co-extensive search.

Although no fees are required, please charge any underpayment of fees to or credit any overpayment of fees to Deposit Account No. 03-2410.

The Examiner is invited to call the undersigned attorney at (617) 854-4237 should he determine that a telephonic interview would expedite prosecution of this case.

Respectfully submitted,

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Date: May 16, 2006